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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,357	12/19/2000	Craig S. Aman	US000436	3380
28159 7590 07/20/2010 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 Briarcliff Manor, NY 10510-8001				
EXAMINER				
SAADAT, CAMERON				
ART UNIT		PAPER NUMBER		
3715				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/739,357

**Applicant(s)**

AMAN, CRAIG S.

**Examiner**

CAMERON SAADAT

**Art Unit**

3715

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 April 2010.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 and 38-47 is/are pending in the application.  
4a) Of the above claim(s) 1-25 and 44-47 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 38-43 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 19 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/ISA-93)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

In response to Appeal brief filed 4/6/2010, prosecution is hereby reopened. Claims 38-43 are pending. Claims 1-25 and 44-47 have been withdrawn and claims 26-37, 48-49 are cancelled.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 42-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The antecedent basis for, "the concept" has not been clearly set forth.

#### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 38- 39 and 41-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Eggert et al. (US 6,527,558; hereinafter Eggert).**

Regarding claim 38, Eggert discloses a method of teaching patient care to a user utilizing a software-generated virtual medical device (virtual stethoscope, see Fig. 18 or virtual Defibrillator, see Figs 21-22) that includes a medical device control object (222a or 252b) in a first graphical user interface; a medical device first aid instrument object (virtual stethoscope head 226 or shock button 252d) in the first GUI or a second GUI, wherein the medical device first aid object simulates a first aid component (stethoscope head or shock button) of the medical device; allowing the trainee to interact and manipulate the medical device control object and the

medical device first aid instrument (stethoscope icon 226 is moved around virtual torso 224 by the trainee to hear a particular sound); providing feedback in response to the interaction; the feedback indicating the correctness of the interaction (the stethoscope icon glows when placed in the correct anatomical area for hearing a selected sound and plays the sound so that the user learns the location for detecting a selected body sounds in a patient) see Col. 15, lines 9-27.

Regarding claim 39, Eggert discloses that the medical device is an Automatic External Defibrillator. See Fig. 21.

Regarding claim 41, Eggert discloses text description of operational steps of the medical device. See Figs. 18 and 21-22.

Regarding claim 42, Eggert discloses still images 224, 22a illustrating the text description. See Fig. 18.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eggert.**

Regarding claim 40, Eggert discloses providing visual instructional information related to the medical device. See Fig. 18, 21-22. Eggert does not explicitly state that the medical device operation instructions can be presented audibly. However, the Examiner takes official notice that providing visual/text instruction in audible form is old and well known in the educational field for adapting lessons for trainees that have a preferred learning style of audible learning. Therefore, it would have been an obvious modification to help users that prefer an audible learning style.

**Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eggert in view of Ramshaw (US 5,791,907)**

Eggert does not disclose the claimed feature of providing a video illustration of the operational steps described in the text. However, Ramshaw teaches a video segment that highlights steps of a surgical procedure. See Ramshaw, col. 11, lines 60-61. Therefore, it would have been obvious to one of ordinary skill in the art to modify the text instructions described in Eggert by providing a video illustration of the instructional steps, in order to provide a learning strategy that caters to visual learners that learn by visual demonstration.

***Response to Arguments***

After careful consideration of the arguments presented in the Appeal brief filed 4/6/2010, the Examiner does not agree with the previous Examiner's position nor the Applicant's position on the teachings of Melker. For example, in the office action mailed 1/29/2008, the previous Examiner's position is that Melker is missing the feature of providing a medical device control object in a first graphical user interface, and relies on a secondary reference for this feature.

However, Melker clearly discloses this feature and the secondary reference does teach the feature. For example, In Col. 6, lines 3-19 Melker discloses:

In one embodiment, an image of the medical device that resembles the actual device utilized may be presented on the computer screen as part of the training. The image may include representations of the controls (e.g., keys, buttons, dials) and the display (or other output) of the medical device.

In addition, Applicant argues that the claimed first aid instrument object is electrode pads of a defibrillator and emphasizes that Melker does not disclose the feature of having a student manipulate both medical device control objects and a first aid instrument object. The Examiner respectfully disagrees. Applicant's interpretation of "first aid instrument object" is not the broadest reasonable interpretation. Applicant is reminded that claims are given their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir.1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). Accordingly, Melker's representation of a medical device includes control objects (keys and buttons) and first aid instrument objects (dial or display/output device). Furthermore, many of the example medical devices listed in Col. 8, lines 20-65 of Melker can be reasonably interpreted as first aid devices. Thus, it is the Examiner's position that Melker should have been applied as a 102 rejection with respect to claim 38.

Although Melker is relevant to applicant's claimed invention, MPEP 904 [R-5] states that "The first search should cover the invention as described and claimed, *including the inventive concepts toward which the claims appear to be directed.*" Accordingly, the Examiner withdraws all previous rejections in light of Eggert et al. (US 6,527,558) which appears to include inventive concepts that are discussed in applicant's arguments.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAMERON SAADAT whose telephone number is (571)272-4443. The examiner can normally be reached on M-F 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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